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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

In the Matter of the Petition of	*	
EDGERTON EDUCATION ASSOCIATION	*	Case 25
To Initiate Mediation-Arbitration	*	No. 34967
Between the Petitioner and	*	Med/Arb #3264
	*	Decision No. 23114-A
EDGERTON SCHOOL DISTRICT	*	
	*	

APPEARANCES:

Mallory K. Keener, Executive Director, Capital Area UniServ South,  
on behalf of the Petitioner

David R. Friedman, Attorney at Law,  
on behalf of the District

INTRODUCTION

On January 16, 1986, the Wisconsin Employment Relations Commission (WERC) appointed the undersigned to act as Mediator-Arbitrator pursuant to Section 111.70(4) (cm) 6b of the Municipal Employment Relations Act (MERA) in the dispute existing between the Edgerton School District (hereinafter the "Employer" or "District" or "Board") and the Edgerton Education Association (hereinafter the "EEA", or "Union" or "Association"). On April 8, 1986, a public hearing followed by mediation proceedings were held between the parties pursuant to statutory requirements. Mediation failed to produce a voluntary resolution of the dispute. Accordingly, an Arbitration hearing was held April 21, 1986. Briefing was completed on June 23, 1986. This arbitration award is based upon a review of the evidence, exhibits and arguments, utilizing the criteria set forth in Section 111.74(4) (cm), Wis. Stats. (1983).

ISSUES

1. Which school districts shall be utilized by the arbitrator as comparables?
2. Shall the Edgerton Economic Adjustment be made an official part of the printed salary schedule?
3. Shall the 1985-86 agreement maintain the dates and procedures for negotiation of successor agreements contained in the 1984-85 agreement?
4. Shall health insurance provisions contained in the 1984-85 agreement continue in this agreement?
5. Which salary schedule contained in the parties' final offer shall be adopted?
6. Which voluntary retirement language shall be incorporated in the 1985-86 agreement?

NOTE: Both final offers contain the same language regarding district contributions to the Wisconsin Retirement System.

EDGERTON ECONOMIC ADJUSTMENT

THE DISTRICT'S POSITION

The Board asks that official recognition be given to the adjustment, which has been recognized by the Association and the District for many years. In part, this is a mere housekeeping measure designed to give public credit to the Board and to allow for uniform reporting of the Edgerton salary structure.

The economic adjustment shall continue, regardless of the outcome of this bargaining.

#### THE ASSOCIATION'S POSITION

Everyone already knows how to recognize the adjustment. It is unclear exactly why the District chose this bargaining process to make it a part of the final offer. It is not worthy of attention at this stage of the bargaining.

#### DISCUSSION

The award here will not stand or fall upon the arbitrator's decision on the Edgerton Economic Adjustment issue. However, this arbitrator would decide this issue in favor of the Union on the ground that it is something better bargained between the parties than decided in arbitration.

#### AGREEMENT BOUNDS

#### THE ASSOCIATION'S POSITION

The EEA has no proposal here, preferring to maintain the present contract terms. It feels that an early date for bargaining allows for maximum participation by teacher members of the bargaining team, a factor deemed important to the Union membership.

Furthermore, all the conference schools which have date requirements in their agreements at all require proposals to be exchanged in practical conformity with Edgerton's present practice.

#### THE DISTRICT'S POSITION

The District has proposed a change of date for exchange of proposals simply to conform the contract language to reality. A January date is meaningless when we are now in June without a contract for 1985-86.

This is not new language, only a change in date. Comparisons are not helpful here, when the objective is to deal with the special circumstances of this particular school district.

#### DISCUSSION

Again, this is not the issue upon which this award will turn. As with the economic adjustment matter, this arbitrator feels this question should be settled between the parties, without recourse to an arbitration award.

This fixing of dates for exchange of proposals is useful only to bring the parties' attention to the bargaining process and to forestall failure to bargain in good faith. If the required dates do not conform to reality, the parties will mutually agree to continuances that do. Therefore, if a date is to be set forth in this agreement, it seems to this writer to be helpful to have it conform as closely as possible to the real world. If bargaining cannot be held during the school year, it must perforce occur during summer vacations.

It appearing that the first Monday in May more closely resembles reality than the status quo, the language proposed by the District is to be preferred.

#### COMPARABLES

To this point, there has been no substantive reason to address the issue of comparables. The remaining portions of this award require discussion of that subject.

#### THE DISTRICT'S POSITION

In the District's view, the Rock Valley Conference, less Beloit Catholic, offers the most desirable and traditional comparable school districts.

The Board objects to inclusion of the secondary districts offered by the Association although it agrees to include the Milton district for the limited purpose of evaluating its insurance offer.

Further, the District is concerned that many of the secondary districts have had recent settlements which reduce their usefulness as comparables. It submits that a benchmark analysis is not valid when settlements reflect local conditions and a "skewing" of salary schedules. This is particularly true when the skewing has taken place in the current contract.

## THE ASSOCIATION'S POSITION

The EEA argues that the Rock Valley Conference offers the most desirable set of comparables. This is bolstered by the fact that three districts have settled and that final offers are on record for two more.

If additional comparables are to be used, the Association offers seven districts which it believes so closely resemble Edgerton in size, geographic proximity and economy as to make them a valid comparable group.

## DISCUSSION

The Rock Valley Conference offers the most desirable set of comparables. Looking outside the conference, one is struck by the apparent lack of homogeneity evidenced among the districts selected. With the possible exception of the Milton district, other districts are too large, too distant, and too subject to the impact of a non-comparable system, such as Madison, to offer any real basis for drawing useful results.

One is reluctant to rely upon the limited information to be gained from the examination of three settled districts and two sets of final offers. Yet, under the peculiar set of issues and circumstances involved in resolving the Edgerton final offers, it appears they will suffice.

## HEALTH INSURANCE

### THE ASSOCIATION'S POSITION

The EEA would not alter the present contract language. It argues that it was interested in exchanging language on health insurance for other compensation to its members during bargaining. It states it might have accepted an increase in the front end deductible had the District used a portion of the projected premium savings to lessen the impact of the increased costs. Once it determined that such relief was not to be offered, the Association lost interest in working with the Board on this issue and declined to include a health insurance proposal in its final offer.

The Association also directs the arbitrator's attention to the other Rock Valley Conference districts, all of whom have health insurance provisions similar to that presently in place in Edgerton. The exhibits appear to indicate that only Walworth had a front-end deductible for 1984-85. All others indicate no deductible amount.

The Edgerton School District recently settled an agreement with its unionized aides which maintained the health insurance program without a front-end deductible. The proportionate savings to the District were not insisted upon there. The EEA objects to the Board's attempt to realize them here.

### THE DISTRICT'S POSITION

The District does not attempt to justify its health insurance offer except on the basis of cost savings. However, it argues that it did indeed incorporate the savings realized into the total cost of the package offered to the Association. This is indicated by the 8% economic increase offered to the teachers. Were this savings not available, the Board would not have been so generous.

The District points to the Milton district to show that the concept of a front-end deductible is gaining favor in south central Wisconsin.

Finally, the District argues that in any event the new health insurance language will go into effect 30 days after the effective date of this contract. The practical effect of this offer is to leave the present provisions (and its attendant cost) in place for the entire 1985-86 school year. This results in a phasing-in of the proposal at the expense of the District, which will not realize any cost benefit during the term of this contract.

## DISCUSSION

The District's offer here does not appear comparable to the health insurance terms contained in other Rock Valley Conference districts for 1985-86. For this reason, the Board's offer might be rejected.

The Milton district is not within the comparable group. The EEA has presented information which would tend to show that the front-end deductible was in fact "bought" by the Milton district by a wage settlement substantially higher than that offered in Edgerton.

However, the Board's offer is prospective only. The teachers have had the benefit of the present language for the entire 1985-86 school year and there will be no retroactive impact should the District's offer be accepted. It therefore appears this issue is in fact a matter for bargaining in the future and the health insurance issue will not be a controlling factor in this award. The question will be answered by the entire award, and a preference between the two positions will not be expressed here.

## SALARY STRUCTURE

### THE DISTRICT'S POSITION

The District would have the arbitrator abandon the traditional benchmark analysis of comparables. Lack of uniformity between recent settlements and the small number of settled Rock Valley Conference districts makes this approach uninformative. In its place, the District asks consideration of this issue in the following areas:

1. Average dollar increases and percentage packages. The District here presents information derived from settled conference schools. The average dollar increase offered by the Board exceeds all other school districts except Parkview with two additional days. The same result is found when salary and package percentage increases are displayed, except that the package cost percentage in the Association's final offer even exceeds the Parkview settlement with two days added.
2. Average salaries. Both final offers maintain ranking among settled conference schools.
3. Other area settlements. The voluntary settlements with the District's Support Staff union and the City of Edgerton's union employees are all below that of the Board here. Because the EEA's offer is higher than the Board's, the District offer must be found to more closely reflect bargaining conditions in Edgerton.
4. The Economy. The Edgerton District has been suffering from two blows to its economy. Exhibits were presented showing the impact of a declining farm economy upon the District's rural taxpayer. Of equal importance is loss of jobs in Edgerton itself and reduced employment in Janesville, where many Edgerton citizens have traditionally found work.

This has resulted in a drop in land values which will require tax increases to replace needed lost revenue. When viewed in relation to State of Wisconsin policies enunciated by Governor Earl, the Board is placed in a dilemma which requires careful balancing of equities between its staff and its taxpayers. It submits that its final offer reflects such a proper balance.

The District has benefited from increased State aids. However, it would be improper to allocate the entire sum to teachers' salaries. Other interests and obligations, not the least of which are the District's taxpayers, must be allowed to benefit from this increase.

### THE ASSOCIATION'S POSITION

The EEA offers a benchmark comparison between the Board and the Association final offers and the three settled Rock Valley Conference Districts. This analysis indicates an over-all loss of relative rank for the Edgerton teachers as compared with the two voluntarily settled districts and both offers would achieve a modest increase in rank when compared to the Evansville arbitration award, which favored that Board.

A comparison between the final offers and the statewide settlement pattern further supports the EEA's position. The District's offer is below the average percentage increase in every benchmark. The Union's offer exceeds the average in only one benchmark, by only .1% in that benchmark. In all others, the EEA offer is below the State average, but by a lesser amount.

The dollar comparisons are even more favorable to the EEA, with all increases below the statewide pattern, though, again, the Association cash increase is more in line.

The Association does not dispute the information relating to the economy submitted to the arbitrator by the Board. It does dispute the applicability of statewide information on the farm economy to the specific Edgerton situation.

The EEA asks the arbitrator to find that factors other than general economic conditions govern wage patterns of teachers.

Further, the State aid increase is not being properly allocated. The difference between the average increase in salary in both offers is less than 5% of the total increase in State aids to the District.

In some respects, the role of the teacher is more important in periods of a declining economy than in an expanding economy. A well-trained, competent school population is the areas best long-term protection against economic problems. This can best be achieved by maintaining a well-trained, competent and properly compensated teaching staff.

#### DISCUSSION

It is proper to agree with the District on the subject of allocation of State aids. The difference is not the 5% difference between offers, but the increased costs over the previous contract year. That increase is substantial and either final offer might be selected on that basis.

Economic factors are more difficult to judge. There can be no question that closing industries, job losses in nearby cities, and the farm economy have had an adverse impact on the local taxpayer. This writer might hold a party to more detailed information should an attempt be made to vary substantially from the norm in final offers. As will be discussed below, neither final offer here does so, so the economic information will be accepted but will not be decisive in this issue.

Similar treatment must be given to the other public employee wage settlements in the Edgerton area. The Edgerton School District non-professionals have received a 7% increase, not substantively less than either final offer, especially when degree status is considered.

One of the basic rationales for the use of benchmark comparables is that they are not subject to interpretation, do not reflect the different staffing patterns from district to district, and offer a precise method of computing differences between offers.

An argument was raised by the Board that benchmark comparables are not appropriate here owing to the lack of information available to the arbitrator. It must be confessed that this arbitrator would prefer a benchmark analysis of the entire conference. None is available here; but that does not mean a comparison cannot be made without recourse to statewide figures.

The Statute does not require the arbitrator to find which of two final offers is the more "reasonable". It only asks that weight be given to comparable wages, etc., paid to persons performing similar services.

And the athletic conference comparables available indicate an erosion of the Edgerton teachers' ranking, no matter which final offer is accepted, if the comparison is with those districts which have achieved a voluntary settlement.

At this point, we must turn to a final statutory criterion, the welfare of the public. Here we must consider not only the question of whether a salary offer is comparable, but whether the interests of the public are served by accepting it. Where no argument has been made relating to ability to pay, the question of the dollar impact of the offers may still be examined.

It cannot be said that a lower offer is always more responsive to the welfare of the public than a higher. However, when two offers are reasonably close, as they are here, and within the boundaries established in comparable districts, as they are here, it is possible to conclude that the lower offer of the Edgerton School District is more responsive to the welfare of the public.

#### VOLUNTARY RETIREMENT

This portion of the award will depart from the format utilized before. Both sides to this dispute concentrated on the voluntary retirement issue in their briefs. In fact, the entire reply brief of the Edgerton Board was devoted to a discussion of the issue. The arbitrator has benefited greatly from the explanations set forth in the detail of information provided.

To deal with this issue, an analysis of the salient points and objectives will follow.

1. Objective. Both sides intend their offer to encourage early retirement by Edgerton teachers. Both sides are sincere in this expressed desire. One is only able to speculate on the effect, and we may never know which would be best as only one will be chosen here.

2. Cost. Here, too, some speculation takes place. Based upon some assumptions, the District has projected some costs. The EEA has projected others and is more detailed in projected staff salary savings that might be achieved. Either plan will have salary savings, that being one of the objectives of an early retirement offer in the first place.
3. Eligibility - Term of Service. The difference between the two plans relating to years of service in this District is not substantial. Of course, more teachers would fall into the eligible group with a ten year service requirement than under a fifteen year requirement. Based upon voluntary retirement programs already in place in the Rock Valley Conference, the Association's plan might be preferred.
4. WRS Contributions. Both plans provide for payment of the required WRS contribution on behalf of employees in the plan. The EEA states its plan would tend to increase participation. Were this true, the cost to the District might be higher, although increased participation would increase the salary off-set to reduce the cost.
5. Health Insurance. The District would contribute the entire cost of health insurance to age 65 or until \$5,400 has been contributed. The Association would place no dollar cap on contributions, but would allow payment in full for three years with the retiree able to continue the plan thereafter at his or her expense.

Both plans provide for an effective cost cap. What is speculative is whether or not health insurance premiums rise at a rate which makes the cap work to the teacher's benefit or the Board's. Also unknown is whether a retiree would be a single person or on the family plan.

6. Cap on Participation. Here the offers differ substantially. The Board would allow only six participants at a time in any two year period. The Association would allow participation by all teachers otherwise eligible. Only one other Rock Valley Conference member imposes any such cap, and even then the Board may expand the group at its discretion.

The parties differ bitterly on this issue. The EEA maintains that the District's plan would have a chilling effect upon participation which would defeat the purpose of the program. The Board feels it would have no such effect.

Again, it is difficult to project which argument will be proved to be correct in the short term. However, with an experienced workforce, it appears clear that as the years pass, the six participant cap might well result in depriving otherwise eligible staff of the early retirement option.

Although, again, short term effects are speculative, the long term would appear to favor the Association's view that the objective of encouraging early retirement might be limited by adoption of the District's plan.

7. Plan Termination. The EEA would make the program subject to bargaining in the next school year. The Board would exempt it from the bargaining process for two years. Notwithstanding the two year term, the Board would reserve to itself the right to unilaterally terminate the plan in the event of any "material alteration" of the current State of Wisconsin retirement law.

It is difficult to see how this issue would affect the objective of either program. Presumably, persons participating in either plan would be grandfathered in the event of change, so a person who elects participation under this agreement would continue to enjoy the plan's benefits.

However, the Board's desire to retain the unilateral right to terminate the plan gives one pause. Obviously, a plan made illegal by statute will be terminated. What is missing here is a better defined standard than that contained in the phrase "material alteration". If the entire plan is made the subject of normal bargaining, statutory alterations may be examined and resolved by the parties on an equal basis.

8. Eligibility - Age. The District would limit eligibility to those teachers who have reached age 62. The EEA would extend eligibility to any teacher who had reached age 55, the normal retirement age under the WRS, but was not eligible to retire because of failure to complete 30 years of creditable service.

This is the area to which the parties devoted the most attention in their briefs. For purposes of discussion here, it is only necessary to deal with the issue of which plan best achieves the stated objectives of the parties.

In effect, both sides seem to agree generally that the Association's plan would, over the long term, encourage more participation. The Board feels that cost constraints require them to limit the potential number of retirees. As was stated above, this writer is unpersuaded of the accuracy of either sides costing, referring to them both as speculative.

9. Notification and Resignation. Another area of substantial dispute between the parties. The Association would give a teacher until April 15th to notify the Board of a decision to accept voluntary retirement. The date is tied into the statutory date for signing of contracts and is within the 90 day period required by the WRS for notification of retirement. Since any eligible member has the right to participate, resignation would not lose the teacher any other benefits.

The District would set February 1st as the date in order to adequately plan for staff replacement. Because openings in the plan would be known to the staff, a resignation which, under its plan would cause a loss of benefits to a resigning teacher, would in practice work no harm to the teacher.

It is hard to see how a late date would work a hardship on the District since it is not able in any event to ascertain the identity of its returning staff until contracts are returned on April 15th.

Once again the limits placed upon enrollment would require an eligible teacher to hazard contract benefits in the hope that no member with more seniority might elect under the plan.

#### DISCUSSION

Much of the discussion here is contained in the foregoing analysis of the plans. On balance, the Association plan will more likely attain the objective of encouraging early retirement than the Board's, and for that reason it is selected here.

No teachers will retire under the plan, the 1985-86 school year having been completed. This contract shall become the immediate subject of collective bargaining. There is thus sufficient time available for a further analysis of cost and participation by both sides. Further, if a statutory challenge is to be made, that challenge can be heard in a more proper forum than that offered in the arbitration process.

#### DECISION

Attention must now turn to a weighing of the total final offers of the parties. It is not proper to simply count winners and losers, as though computing runs scored. If that were to be done, this award would be granted to the EEA, 3 to 2, with one undecided.

The statutory requirements have been discussed before, and either final offer would be acceptable under the Statute.

The Salary Structure and Voluntary Retirement have been identified as the two most important portions of the final offers. In the former, the District's position is favored. In the latter, the Association's. This writer is persuaded that the two salary structures are relatively similar, one offering a 6% salary increase and the other a 6.9% increase in each cell of the schedule.

This arbitrator is of the opinion that a wide disparity exists between the two retirement plans. It appears clear that the EEA offer would more likely encourage participation than the Board offer. The same certainty cannot be found in the cost analysis presented to the arbitrator.

The sheer emphasis placed upon the retirement issue by the parties at the arbitration hearing and in the briefs submitted require the arbitrator to place a similar emphasis on that issue in arriving at a decision. Therefore, the final offer of the Edgerton Education Association must be chosen.

Based upon all of the foregoing, the undersigned hereby renders the following:

AWARD

The final offer of the Edgerton Education Association shall be incorporated into the 1985-86 collective bargaining agreement together with the items previously stipulated to between the parties.

Dated this 3rd day of July, 1986.

  
ROBERT L. REYNOLDS, JR., Arbitrator